

SUMMARY OF ETHICS RULES NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY 2010

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**ETHICS LAW AND PROGRAMS
DIVISION
OFFICE OF THE ASSISTANT
GENERAL COUNSEL FOR
ADMINISTRATION
UNITED STATES DEPARTMENT OF
COMMERCE
202-482-5384
ethicsdivision@doc.gov
www.ogc.doc.gov/ethics.html**

PUBLIC SERVICE IS A PUBLIC TRUST

As an employee of the National Institute of Standards and Technology (NIST), you have been placed in a position of trust and are held to a high standard of ethical conduct. This handout contains a summary of the rules set forth in conflict of interest statutes and the *Standards of Ethical Conduct for Employees of the Executive Branch*. You should retain this handout for use as a reference source. The first part of the handout contains a basic summary of ethics rules; the second part provides specific guidance for NIST employees regarding some of the ethics rules.

For advice about ethics rules, contact the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration, U.S. Department of Commerce, at 202-482-5384 or ethicsdivision@doc.gov.

Designated Agency Ethics Official:
Cameron F. Kerry, General Counsel

Alternate Designated Agency Ethics Official:
Barbara S. Fredericks, Assistant General Counsel for Administration

Office of the Assistant General Counsel for Administration

To obtain legal advice regarding other administrative law issues, call the:

Employment and Labor Law Division at 202-482-5017 – for advice regarding personnel law and labor law issues

General Law Division at 202-482-5391 – for advice regarding appropriations laws and laws regarding the release of information, conduct of advisory committee meetings, and general administrative law issues.

Office of Inspector General – The Ethics Law and Programs Division provides advice but does not investigate allegations of violations of law. To report fraud, waste, abuse, or other violations of law, or to request an investigation, call the Office of Inspector General Hotline at 800-424-5197 or 202-482-4661 or email hotline@oig.doc.gov.



FINANCIAL CONFLICTS OF INTEREST

NIST

Basic Principle: No Self-Dealing

General Rule. You may not participate as a Government official in a matter that will have a direct and predictable effect on your financial interests; on the financial interests of your spouse, minor children, household members, general partners, outside employers, or prospective employers; or on the financial interests of an organization in which you serve as a trustee, officer, or board member. This includes a matter that affects a company in which you own stock.

Exemptions from the General Rule. Exemptions permit you to participate in matters affecting a financial interest if the financial interest is:

- a holding in a diversified mutual fund;
- a holding in an industry sector-specific mutual fund or geographic sector-specific mutual fund of \$50,000 or less (if interests in all such funds in the same sector are \$50,000 or less);
- a publicly-traded stock or bond holding of \$15,000 or less;
- a publicly-traded stock or bond holding of \$25,000 or less with regard to a matter in which the entity is not a named party (and if total holdings in all affected entities are \$25,000 or less or, if it is a broad policy matter, if total holdings in the industry or group affected by the matter are \$50,000 or less); or
- not substantial and for which you have received a conflict of interest waiver through the Ethics Law and Programs Division. (Such waivers are generally available only for employees serving overseas under current Department policy.)

Waivers. Waivers of the disqualification requirement may be granted with regard to interests that are not covered by one of the exemptions but that are not substantial; however, current Department policy is to rely on the exemptions listed above rather than issue individual waivers. Nevertheless, if you believe that a waiver is appropriate in a particular case, contact the Ethics Law and Programs Division at 202-482-5384.



APPEARANCES OF BIAS (NON-FINANCIAL CONFLICTS OF INTEREST)

NIST

Basic Principle: No Special Favors

Appearances of Impropriety concerning Participating in Matters Involving Relatives and Associates. Unless you receive specific authorization, you may not participate in a matter as a NIST employee if one of the parties to the matter is (or is represented by) a person with whom you have a close family or business relationship (a “covered relationship”), if your participation would create an appearance of loss of impartiality.

Persons with whom you are considered to have a “covered relationship” include:

- persons with whom you have or are seeking a business or a financial relationship (other than a routine consumer transaction);
- members of your household;
- your close relatives;
- employers and clients of your parents, dependent children, and spouse (and their prospective employers and clients);
- former non-Federal employers and clients (for a one-year period, or a two-year period if you received an extraordinary severance payment from the former employer before entering into Federal service); and
- organizations in which you are an active participant (other than political organizations).

In addition, if you are a non-career (political) appointee and served as a registered lobbyist at any point in the two-year period before your appointment, for two years you may not work as a Federal employee on any matter in which you provided lobbying services or on any matter within the specific issue area on which you lobbied.

Exceptions. Authorization to participate in a matter in which one of these persons or entities is a party (or represents a party) may be granted if NIST’s need for your participation outweighs appearance concerns. To seek such an authorization, contact the Ethics Law and Programs Division at 202-482-5384.



GIFTS, BRIBES, AND SALARY SUPPLEMENTATION

NIST

Basic Principle: Avoid Undue Influence

Bribes and Salary Supplementation. You may not ask for or accept payment for taking or failing to take action as a Federal employee or for performing your Government job.

Personal Gifts. Generally, you may not accept a gift from anyone who has (or is seeking) a contract, grant, or other business with the Department; that is regulated by the Department; or has interests that may be affected by performance of your NIST duties or a gift that is offered because of your NIST position. This usually includes gifts to your spouse or minor child. However, *exceptions* permit you to accept:

- gifts of \$20 or less (other than cash) (up to \$50 per year from the same donor);*
- gifts from relatives or friends (if based on a personal relationship);
- invitations to widely-attended events (if from the host (generally) and if your supervisor approves your attendance as being in NIST's interest);*
- discounts available to a broad range of persons;
- awards and honorary degrees (in specified circumstances);*
- meals, lodging, or transportation based on outside employment;*
- business meals overseas, if a foreign citizen is present (to the city's *per diem*);* and
- gifts from a foreign government of \$335 or less—gifts of over \$335 may be accepted, but become property of the United States Government.

** this exception does not apply if you are a political appointee and the gift is from a lobbyist or lobbying organization other than a 501(c)(3) organization or a media company*

Gifts between Employees. In general, you may not offer a gift to a supervisor or accept a gift from a subordinate. However, *exceptions* permit you to accept or give:

- a gift for a major life event (such as a child's birth, a retirement, or a wedding);
- items of \$10 or less given occasionally;
- food shared in the office; and
- personal hospitality at one's home or a gift to a host or hostess.

Gifts to NIST. With approval, you may accept a gift for NIST activities, including travel (if unsolicited), if acceptance would not appear improper; this generally precludes accepting gifts from a donor that is a NIST contractor or grantee.



OUTSIDE EMPLOYMENT AND ACTIVITIES

NIST

Basic Principle: Avoid Divided Loyalties

General Rule on Outside Employment. You may not engage in outside employment or any other outside activity that conflicts with your NIST position, including employment that requires disqualification from significant Government duties and activities that create an appearance of using public office for private gain. There are special rules for practicing law, writing or teaching for compensation, and working overseas. Furthermore, special rules apply regarding the outside activities of political appointees. Call the Ethics Law and Programs Division for advice on these rules.

Working for a Foreign Government. The U.S. Constitution bars you from working for, or accepting any compensation from, a foreign government, absent statutory approval. However, NIST employees are permitted to receive fellowships from foreign governments in some circumstances.

General Rule on Contacting the Government and Receiving Payments for Communications by Others. You may not, in general, act as an agent or attorney or, if paid, otherwise represent anyone before any Federal agency or Federal court in your personal capacity. Representation includes any contact made on behalf of someone else with the intent to influence Government action. In addition, you are barred from receiving any payment that is based on the representational activities of someone else, such as a partner, before a Federal agency or Federal court during a period in which you served as a Federal employee.

Exceptions to the Rule on Contacting the Government. You may represent other Federal employees in some personnel disputes if you do not receive compensation and you may represent your parents, spouse, or children, or an estate or trust, if you receive prior approval. You also may represent, without compensation, professional, recreational, and similar groups before the Government if the majority of the organization's members are Federal employees or their spouses or dependents, and if the matter does not involve claims against the Government, proceedings in which the organization is a party, or Government financial benefits to the organization. Contact the Ethics Law and Programs Division (202-482-5834) if you need to obtain prior approval or advice.



POLITICAL ACTIVITIES

NIST

Basic Principle: Keep Government and Political Activities Separate

General Restrictions concerning Engaging in Political Activities. You may not engage in partisan political activities while on Government premises or while on official duty. You also may not use the authority of your Government position or Government resources, including equipment, services, or your official title, in connection with partisan political activities. In addition, you may not:

- accept or receive a political contribution;
- personally solicit political contributions or host a political fund-raiser;
- run as a candidate in a partisan election (except as an independent candidate in local elections in the Washington, D.C. suburbs and other designated areas); or
- solicit or accept volunteer services from a subordinate.

(However, an exception to the rule against political fund-raising lets a union member solicit other union members who are not subordinates for contributions to a multi-candidate political committee of the union.)

Permissible Activities. Except as indicated in the above restrictions, you may actively engage in political campaign activities during non-duty hours even if you are an SL/ST employee (unless you are a career member of the SES or an administrative law judge).

Permissible activities include:

- assisting in the management of a campaign;
- serving as an officer in a political organization;
- soliciting votes (but not funds) for a candidate;
- giving speeches on behalf of a candidate or party;
- making telephone calls or stuffing envelopes on behalf of a campaign; and
- speaking at a fund-raising event (if you do not ask for funds).

Special Rules for Career SES Members. If you are a career member of the Senior Executive Service, you may not actively assist in the conduct of a partisan campaign or serve as an officer in a political organization, even during non-duty hours. However, during non-duty hours you may actively participate in nonpartisan elections and non-candidate campaigns, such as for referenda. Regarding partisan elections, you may vote, make contributions, sign nominating petitions, and engage in similar activities.



MISUSE OF GOVERNMENT POSITION AND RESOURCES

NIST

Basic Principle: Do Not Steal

Use of Government Resources. You may use Government resources only for authorized Government activities. Such resources include Government equipment, supplies, and services, and the time of Government personnel. You may not use nonpublic information you receive as a Federal employee for personal purposes. You may, however, use frequent flier miles and other benefits you earned from Government travel for personal purposes, including personal travel or upgrades for official travel.

Rule on the Use of the Internet and E-mail. You may use access to e-mail and to the internet for personal activities if such use does not interfere with the business of your office and is not prohibited by your agency, *provided that* you do not use access for:

- obtaining or viewing sexually explicit material;
- the pursuit of private commercial business activities or profit-making ventures;
- partisan political activities;
- prohibited lobbying activities;
- uses that result in additional charges to the Government;
- engaging in prohibited discriminatory conduct;
- any activity that would bring discredit on the Department; or
- any violation of a statute or regulation.

You may also use office printers for personal internet and e-mail uses, provided it does not consume excessive resources.

Use of Government Position. You may not use your Government authority, including business contacts obtained through your Government employment, for personal activities. In addition, you may not use your NIST title in connection with a non-Government activity, except that you may use your Government title in connection with personal activities as part of general biographical data if it is given no more prominence than other significant biographical details.

If you are a political appointee (non-career employee), you are specifically required by an Ethics Pledge you signed to make hiring and employment decisions based on the candidate's qualifications, competence, and experience.



SEEKING EMPLOYMENT AND POST-EMPLOYMENT ACTIVITIES

NIST

Basic Principle: Avoid Divided Loyalties

Seeking Employment. Once you begin to seek non-Federal employment, you must disqualify yourself from working as a NIST employee on any matter that will affect a prospective employer. This disqualification continues until either you or the prospective employer indicate a decision not to pursue the matter further (or until two months with no response after submitting a résumé). If you are participating in a procurement over \$100,000, you must give written notice to your supervisor and the Ethics Law and Programs Division of employment contacts with or from a competing contractor.

Post-Employment Restrictions. After you leave Federal service, you may not:

- contact a Federal agency or court on behalf of someone else concerning a specific-party matter on which you worked;
- for two years, contact a Federal agency or court on behalf of someone else concerning a specific-party matter on which a subordinate of yours worked or which was otherwise under your responsibility during your last year of Federal service;
- for one year if you are a senior career employee or two years if you are a senior political appointee (have an annual base pay of \$155,440 or more), contact NIST (or the entire Department if you are a Presidential appointee) on behalf of someone else;
- for one year, if you are a senior employee, advise (or represent before the U.S. Government) a foreign government or foreign political party;
- disclose or use protected nonpublic Federal information, such as treaty negotiation information, private personnel information, trade secrets or proprietary business information, and national security information; or
- for one year, accept compensation from the contractor of a \$10,000,000 or more procurement, if you served as a procurement official or program manager; or
- if you are a political appointee, for the remainder of the President's Administration, lobby any political appointee in the Executive Branch.

Exceptions and Special Post-Employment Rules. There are some exceptions to these rules, such as for providing testimony in some cases and for representing state and local governments, international organizations, and educational and medical institutions. Additional restrictions apply to attorneys, and to former employees who received buyouts. Contact the Ethics Law and Programs Division for a handout and advice.



FINANCIAL DISCLOSURE

NIST

Basic Principle: Tell the Whole Truth

Guidelines for Filing a Financial Disclosure Report. If you serve in a position in which your activities could have a substantial impact on the public, you may be required to file a financial disclosure report. Such reports are due when you are appointed to such a position and annually thereafter. The information requested on such forms—financial investments, liabilities, gifts, non-Federal positions, and arrangements with past and future employers—is information relevant to the ethics rules discussed in this handout. Ethics officials review the reports in order to identify potential conflicts of interest and to advise you on means to resolve any problem. For this system to work effectively, you must file your report on time and you must list all information requested as completely and clearly as possible.

Specific Guidance. When filling out your report, please:

- sign and date the report;
- if reporting an IRA or 401(k) plan, identify the specific holdings in the account;
- do not list as a gift payments for Government travel—these are gifts to the Government and should be reported on a Form CD 210 and a Form SF 326; and
- if listing an investment in, or position with, a closely-held company or partnership, identify the nature of the business and its location (city and state).

Remember that this information is used to provide advice to you, so the information you include on your report must be specific and complete in order to be useful.

**For further advice on ethics rules, contact the
Ethics Law and Programs Division
of the Assistant General Counsel for Administration,
U.S. Department of Commerce, at
202-482-5384 or ethicsdivision@doc.gov.**



GUIDANCE FOR EMPLOYEES OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

NIST

Applicability of Ethics Rules

Employment Status – The ethics laws and regulations discussed above apply to all persons who are appointed to positions in the Executive Branch. Therefore, these rules apply to full-time permanent and term employees, as well as part-time (including intermittent) employees. However, because NIST also receives services from individuals who are not employees (e.g., contractors, interns, Intergovernmental Personnel Act (IPA) personnel, visiting scholars, and others), not everyone who works at NIST is covered by these rules. If you have a question about your employment status at NIST, contact the NIST Human Resources Office. If you have a question about how the ethics rules apply to your conduct, contact the Ethics Law and Programs Division at 202-482-5384.

Financial Conflicts of Interest

Investments in Technology-Specific Mutual Funds – The conflict of interest rules provide for an exception to the disqualification requirement for investments in broadly-diversified mutual funds, but the exception does not apply to investments in sector-specific funds. As a NIST employee, you may not work on a specific-party matter that affects the financial interests of a company whose stock is held in a sector-specific mutual fund if you have more than \$50,000 invested in that fund (and in other sector-specific funds invested in the same sector). A fund that describes itself as a “technology” fund may not necessarily be considered a “sector-specific fund” if its investments are in a number of different technology-related industry sectors. If you have a question about whether a particular mutual fund is considered diversified or sector-specific, you should seek guidance from the Ethics Law and Programs Division.

Work on Matters Related to Patents in which an Employee Has a Financial Interest – If you have a financial interest in a patent, you may not work on matters at NIST that will have an effect on the value of that patent, unless you receive a conflict of interest waiver that would permit your participation. Department policy is generally not to issue such waivers, but some exceptions are made with regard to interests in patent rights. Absent such a waiver, you may not undertake research (or recommend that other employees do so) that is intended to improve the invention on which you hold the patent or to demonstrate the value of the patent to industry. However, under the Technology Transfer Act, you may receive a percentage of royalties for the licensing of an invention on which you worked at NIST. This interest does not create a conflict of interest or require your disqualification from research activities, but you ordinarily would not be permitted to participate in the

negotiation of a Cooperative Research and Development Agreement (CRADA) or any other agreement between NIST and a private sector party that establishes the terms of the royalty payments you would receive.

Appearances of Bias (Non-Financial Conflicts of Interest)

Participation in Professional Organizations – If, in a private capacity, you are an active member of a professional organization, such as an association of physicists or engineers, you will be barred from participating at NIST on matters in which that organization is a party or is representing a party. If this will interfere with your NIST duties, you should refrain from such outside activities or should seek advice from the Ethics Law and Programs Division. If you are serving with an organization, you must be careful not to commingle your private and Government activities, such as by speaking at an organization event in your official capacity or while on Government time. If it is useful for your office to provide input to the organization, you may be permitted to serve as a liaison in an official capacity, but only if you do not also have a role with the organization in a private capacity. You may not serve in an official capacity as an officer or director of a non-Federal organization (unless it is a standards-setting body and your duties relate to standards-setting activities).

Authorization to Participate in a Matter Involving a Former Employer or Client – As noted in the summary of ethics rules, you generally may not participate in a matter if one of the parties is a former employer or client, or if one of the parties is represented by a former employer or client, for a period of one year (or two years if you received an extraordinary severance payment and whether you are a political appointee). If it is important for NIST that you participate in the matter, notwithstanding the potential appearance problems, special authorization to participate is available through the Ethics Law and Programs Division.

Gifts, Bribes, and Salary Supplementation

Awards – Many NIST employees receive awards from non-government organizations based on scientific achievements. Under ethics rules, such awards are considered to be personal gifts and may be regulated. If you are offered an award with a value of \$200 or more (or a cash award of any value or an honorary degree) from an organization with interests in matters before the Department or whose members have such interests (which would include most professional societies and other scientific organizations), you must receive written clearance from the Ethics Law and Programs Division before you may accept and retain the award. Acceptance is likely to be approved if the award is presented on a regular basis and is made pursuant to written standards. Approval to accept an award includes authority to accept travel payments to the award ceremony for yourself and your family. Because of the prestige associated with some awards, you may, on the basis of the award, receive requests to make speeches or other presentations; lecture or teach courses; write articles for general or scholarly publications; serve on boards, advisory groups or scientific

panels; or engage in consulting. Such activities must comply with ethics rules regarding outside employment. You may seek advice on specific situations from the Ethics Law and Programs Division at 202-482-5384.

Widely-Attended Events – You may be invited to an event, such as a dinner, lunch, or reception, held by a company or organization with interests in NIST activities. You may attend such an event if: (1) the value of the invitation is \$20 or less (and total gifts you received from the person or firm inviting you will remain \$50 or less for the year) or your supervisor approves your attendance as in the interest of NIST (and, if the invitation is not from the host, more than 100 persons are attending and the value per person is \$335 or less) and (2) if you are a political appointee, the invitation is not from a lobbyist or lobbying organization (unless it is a 501(c)(3) organization or a media company). To an event for which you received supervisory approval to attend, you may also bring your spouse or an accompanying guest if other persons invited are also allowed to bring a spouse or accompanying guest. However, you may not attend such an event if it is primarily entertainment in nature, such as a concert or sports event. A supervisor reviewing such a request for approval must carefully consider the benefit the agency will receive and determine whether there will be any adverse public reaction to a NIST employee attending the event and, if so, whether the benefit outweighs the appearance of impropriety. To assist supervisors, the Ethics Law and Programs Division will provide a form for your supervisor to sign that describes all the factors that must be considered before approval is given.

Gifts from Lobbyists and Lobbying Organizations to Political Appointees – If you are a political appointee, you are required to sign an Ethics Pledge agreeing not to accept gifts from lobbyists or lobbying organizations (persons required to register under the Lobbying Disclosure Act and organizations hiring such persons), in most cases even if an exception applies under the general ethics regulations relating to gifts. This bar on gifts from lobbyists does not apply, however, to gifts from 501(c)(3) organizations or media companies. However, if you are a political appointee, you may not accept from a lobbyist or lobbying organization: gifts of \$20 or less as well as gifts over that amount (unless an exception applies not related to the value of the gift); invitations to widely-attended gatherings (regardless of whether your supervisor signs an approval form); awards and honorary degrees; business meals overseas; and meals, lodging, transportation, and similar benefits based on an outside business relationship.

Honoraria and Speaking Fees in Connection with Official Speaking Engagements – Although NIST has authority to accept travel payments in connection with official speaking engagements, if not solicited and if the circumstances would not be likely to create an appearance of loss of impartiality in the operation of NIST activities, a Department policy bars agencies, including NIST, from accepting an honorarium in connection with an official speech or appearance.

Soliciting and Accepting Gifts for NIST Programs – NIST may solicit, as well as accept, a gift to support a NIST program, provided that the gift would not present an appearance of loss of impartiality with regard to agency programs or employees. Note that gifts for official travel may not be solicited. This gift authority has been used in the past to obtain funding in support of conferences and similar events. However, because NIST provides grants to, and enters into cooperative agreements with, non-Federal entities, it is generally barred from accepting gifts from grantees or prospective grantees and may not solicit gifts from such entities. Similarly, it may not accept gifts from contractors or bidders on procurements. With regard to solicitations from other entities, it is important that any solicitation program be conducted in a manner that ensures fairness and avoids any appearance of preferential treatment to donors with regard to agency operations. Thus, solicitations should be broad-based, made to trade associations or groups representing a broad spectrum of companies or to a broad spectrum of interested companies. Sponsorship arrangements may not include an agreement of exclusivity (i.e., sponsors may not bar acceptance of donations from competing companies) and may not include arrangements for donors to have special access to Government officials or to Government information. Before soliciting gifts, you should obtain clearance from your supervisor and seek specific guidance from the Ethics Law and Programs Division at 202-482-5384.

Outside Employment and Activities

Service with Non-Federal Organizations – If you serve as a director or officer of a non-Federal organization, such as a professional organization or association, you generally must do so in your private capacity. If you serve with an organization in your private capacity, you may not participate as a NIST employee on any matter that is likely to affect the financial interests of the organization. This may preclude you from serving with organizations that are active in matters before your office. If it would benefit NIST to have an official relationship with a private organization, you may be assigned as a liaison to the organization, in which case your service with the organization would be in an official capacity, rather than a personal capacity. However, you may not serve in an official capacity as an officer or director of a non-Federal organization (other than a standards-setting body).

Working for a Foreign Government or Foreign Government-Controlled Entity – You may not accept compensation—including reimbursement of expenses for personal travel—from a foreign government or an entity that is legally an instrumentality of a foreign government, such as a government-controlled school or business. Therefore, you may not do consulting or other work for an agency or instrumentality of a foreign government. However, there is legal authority for NIST employees to accept fellowships to perform scientific activities and accept compensation from foreign government entities. Some opportunities offered to NIST employees in a private capacity may be undertaken pursuant to this authority if acceptance of compensation is appropriate, the work does not conflict with official responsibilities, and the employee's participation is consistent with the U.S. Government's interests. In addition, under other NIST legal authority it may be appropriate in some

circumstances to engage in such activities in an official capacity, with approval from your supervisor. You should seek advice from the Ethics Law and Programs Division if you are offered an opportunity to work for an entity that you believe may be part of, or controlled by, a foreign government.

Representing Others Before Federal Agencies – Employees in NIST, like all Executive Branch employees, are barred from serving as an agent or attorney for, or, if paid, otherwise representing, anyone before any Federal agency or Federal court. This generally bars any contacts made with the intent of influencing Government action. However, you may contact other agencies in an official capacity if the communication supports an agency program. Although this could include contacting the Bureau of Citizenship and Immigration Services of the Department of Homeland Security (the successor agency to the Immigration and Naturalization Service (INS)) to recommend a residency permit for an individual whose presence in the United States directly supports a NIST program, current NIST policy is to not provide such letters. Any official communications with Federal agencies to support non-Federal individuals or organizations may only be made to support a NIST program and should be approved by a senior NIST official. Such communications must also comply with the general Department policy against endorsements or preferential treatment.

Political Activities

Use of Access to E-Mail – It is important that you do not send, or even forward, political messages using your Government e-mail account or your Government computer to access a private e-mail account. Such use of Government resources is an improper political activity and is the most frequent basis for referrals to the Office of Special Counsel for disciplinary action.

Misuse of Government Resources

Protection of Information – NIST employees must be particularly careful to safeguard non-public information to which they have access, including business proprietary information. If your duties entail working with a CRADA partner or other non-Federal entity, you should be sensitive to the status of any information to which you have access and should seek advice from the Office of the Chief Counsel for Technology or the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration if you have any question regarding the use of particular information.

Employment Decisions by Political Appointees – If you are a political appointee, you were required to sign an Ethics Pledge in which you agree that any hiring or other employment decision you make is based on the candidate's qualifications, competence, and experience.

Seeking Employment and Post-Employment Activities

Definition of “Senior Employee” – The definition of “senior employee” for purposes of post-employment restrictions means anyone receiving base pay equivalent to or greater than 86.5% of Executive Level II, which in 2010 is equal to or greater than \$155,440. If your base pay is this amount, you will be subject to the one-year “no-contact” rule and the restrictions on representing or advising foreign governments.

One-Year No-Contact Rule – For former senior employees, the one-year, no-contact restriction formerly barred any communications for one year with an employee of the Technology Administration. With the abolishment of that organization, the restriction now applies only to any communication with NIST.

Exceptions with Regard to Post-Employment Work for Educational Institutions – There are exceptions to some of the post-employment restrictions with regard to work for some educational and research institutions. If you plan to work for such an entity after leaving Federal employment, you should seek specific advice from the Ethics Law and Programs Division as to the restrictions that will apply to you and whether exceptions apply regarding specific representational activities.

New Restrictions Applicable to Political Appointees – If you are a political appointee, you are required to sign an Ethics Pledge in which you agree to a number of restrictions that will apply after you leave Federal service. These restrictions, which do not apply to career Federal employees, are that:

- for the remainder of the President’s Administration, you will not lobby (provide services that require registration under the Lobbying Registration Act) any political appointee in the Executive Branch, or any admiral or general; and
- if you leave Federal service to become a lobbyist or work for a lobbying organization, you will not seek or accept employment with a Federal agency that you lobbied during the prior two years; and
- if you are a senior employee (annual base pay of \$155,440 or more) for two years after leaving Federal service you will not represent anyone before your former agency, which is NIST (or, for the Director, the Department of Commerce).

The requirement to sign an Ethics Pledge, and the imposition of these restrictions, are based on an Executive Order on ethics that the President issued on January 21, 2009.



CITATIONS TO APPLICABLE LAW

NIST

Financial Conflicts of Interest

18 United States Code (U.S.C.) § 208
5 Code of Federal Regulations (C.F.R.) §§ 2635.401-2635.403, 2635.502,
2640.201-2640.202

Appearances of Bias (Non-Financial Conflicts of Interest)

5 C.F.R. §§ 2635.501-2635.503
Executive Order 13490, dated January 21, 2009

Gifts, Bribes, and Salary Supplementation

5 U.S.C. §§ 7342, 7351, and 7353; 15 U.S.C. § 1522; 18 U.S.C. §§ 201 and 209
5 C.F.R. §§ 2635.201-2635.205, 2635.301-2635.304; 41 C.F.R. Part 304-1
Department Administrative Order 203-9
Executive Order 13490, dated January 21, 2009

Outside Activities and Lobbying the Government

5 U.S.C. §§ 203, 205, and 208; 5 C.F.R. §§ 2635.801-2635.809

Political Activities

5 U.S.C. §§ 7321-7326; 5 C.F.R. §§ 734.201-734.702

Misuse of Government Position and Resources

18 U.S.C. § 641
5 C.F.R. §§ 2635.701-2635.705
Department of Commerce Internet Use Policy

Seeking Employment and Post-Employment Activities

18 U.S.C. § 207; 41 U.S.C. § 423
5 C.F.R. Parts 2635, 2637, and 2641; 15 C.F.R. §§ 15.11-15.18; 37 C.F.R. Part 10
Executive Order 13490, dated January 21, 2009

Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, United States Department of Commerce – January 5, 2010